

STATE OF MONTANA
BEFORE THE DEPARTMENT OF NATURAL RESOURCES
AND CONSERVATION

IN THE MATTER OF APPLICATION FOR FILMED
BENEFICIAL WATER USE PERMIT NO. 6940-s42M BY N TRIANGLE RANCH, APR } 1976
INCORPORATED)
FINDINGS OF FACT, CONCLUSIONS OF
LAW, AND ORDER

The proposed Findings of Fact, Conclusions of Law, and Order in this matter as entered on November 16, 1976, by the Hearing Examiner, are hereby adopted as the Final Findings of Fact, Conclusions of Law, and the Final Order.

FINAL ORDER

Application No. 6940-s42M by the Applicant, N Triangle Ranch, Incorporated, is hereby denied.

Done this 3rd day of January, 1976.

Orin Ferris
Administrator, Water Resources Division
DEPARTMENT OF NATURAL RESOURCES
AND CONSERVATION

NOTICE: Section 89-8-100, R.C.M. 1947, provides that a person who is aggrieved by the final decision of the Department is entitled to a hearing before the Board of Natural Resources and Conservation. A person desiring a hearing before the Board pursuant to this section must notify the Department in writing within ten (10) days of the final decision.

Address: Department of Natural Resources and Conservation
Natural Resources Building
32 South Ewing
Helena, MT 59601

CASE # 6940

BEFORE THE DEPARTMENT
OF
NATURAL RESOURCES AND CONSERVATION
OF THE STATE OF MONTANA

IN THE MATTER OF APPLICATION FOR)
BENEFICIAL WATER USE PERMIT)
NO. 6940-s42M BY N TRIANGLE)
RANCH, INC.)

PROPOSAL FOR DECISION

A hearing on the objections to the above-entitled application was held on October 28, 1976, in Glendive, Montana. The Applicant was represented by its vice president, Darrell Sackman. All the objectors were represented by their counsel, Dale Cox, of Glendive, Montana. Based upon the record herein, the following proposed findings of fact are made as required by the Montana Water Use and Administrative Procedure Acts:

PROPOSED FINDINGS OF FACT

1. The Applicant desires to appropriate 130 acre feet of water per year from Crisafulli Creek, which is a tributary to the Yellowstone River on the outskirts of Glendive, Montana. The water would be used to sprinkler irrigate 40 acres and water 30 head of cows. The proposed diversion structure is an on-stream dam which would store 5 acre-feet of water. Evidently, pumping would draw down the reservoir, which would be refilled with water coming down the drainage, until 130 acre feet were used.

2. Crisafulli Creek is an intermittently flowing drainage roughly 5.5 miles in length. The proposed project would be located about 1.5 miles from the headwaters of the drainage, which eventually flows into Crisafulli Lake, located about 1.5 miles upstream of the mouth. Crisafulli Lake was constructed by the Crisafullis about 20 to 25 years ago to trap the flows of the creek for irrigation purposes, and, along with some of the surrounding land was sold by the Crisafullis to the Cottonwood Country Club in about 1960.

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The present golf course of about 80 acres is irrigated from the Crisafulli Lake, although the Crisafullis reserved to themselves the right to also use water from the lake in the future. This right has not been exercised to date.

3. Crisafulli Lake has a surface area of about 20 acres; a total storage capacity of about 100 acre feet; and a "working capacity" or usable storage of 60 acre feet. The lake is filled during the March and April spring runoff, and the Club relies on this filling until about the end of June. The entire flow of the drainage, except for 10 to 20 acre feet which overflows the spillway, is captured. During the latter part of the summer, the Club purchases water from the Buffalo Rapids irrigation project to complete its water needs. The Club buys about 50 acre feet a year from Buffalo Rapids and has done so every year except two since 1960. The Buffalo Rapids water is placed in the lake, from which it is pumped by the Club.

4. Crisafulli Creek flows water only during the Spring runoff, and is generally dry by at least August. There are some springs in Section 18 below the applicant's proposed dam, but it is doubtful whether their flow reaches Crisafulli Lake during the dry season because of the gravel and sandstone nature of the streambed.

PROPOSED CONCLUSIONS OF LAW

1. The Cottonwood Country Club has fully appropriated the existing flows of Crisafulli Creek by impounding them in Crisafulli Lake.

2. The existing supply of water in the Crisafulli Creek drainage is inadequate to meet the present needs of the Club, which is forced to purchase additional water in most years.

3. The appropriation of any additional water above Crisafulli Lake would result in the Club's having to purchase additional water, if such were available. If not, the Club's water needs would not be met.

4. Any additional appropriation on Crisafulli Creek would adversely affect the Club's existing rights.

PROPOSED ORDER

It is proposed that the application be denied.

DATED: November 16, 1976.


Allen B. Chronister

NOTICE

This is a Proposed Order and will not become final until accepted by the Administrator of the Water Resources Division of the Department of Natural Resources and Conservation. Written exceptions to the Proposed Order, if any, shall be mailed to the Department within ten (10) days of service upon the parties herein. Upon receipt of any written exceptions, opportunity will be provided to file briefs and to make oral arguments before the Administrator of the Water Resources Division.

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